

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

California Rules of Court, rule 977(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 977(b). This opinion has not been certified for publication or ordered published for purposes of rule 977.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT  
DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

MAHMOOD HOJATI,

Defendant and Appellant.

---

MAHMOOD HOJATI,

Petitioner,

v.

SUPERIOR COURT OF  
LOS ANGELES COUNTY,

Respondent;

THE PEOPLE,

Real Party in Interest.

---

B179105

(Los Angeles County  
Super. Ct. No. A743020)

B179276

APPEAL from an order and writ petition of the Superior Court of Los Angeles County, David S. Wesley, Judge. Order reversed and remanded; petition denied.

Michael P. Judge, Public Defender, Ilona Peltyn and John Hamilton Scott, Deputy Public Defenders, for Defendant and Appellant.

Bill Lockyer, Attorney General, Robert R. Anderson, Chief Assistant Attorney General, Pamela C. Hamanaka, Assistant Attorney General, Donald E. De Nicola and Jaime L. Fuster, Deputy Attorneys General, for Plaintiff and Respondent.

Mahmood Hojati appeals an order denying a petition for a certificate of rehabilitation and pardon on the ground Hojati is not a U.S. citizen. (Pen. Code, § 4852.01, subd. (a).)<sup>1</sup> Hojati also filed a petition for writ of mandate seeking an order directing the trial court to grant Hojati's petition for a certificate of rehabilitation and pardon. We previously ordered the writ petition to be considered concurrently with the appeal.

The respondent has filed a respondent's brief which concedes citizenship is not a prerequisite to seeking a certificate of rehabilitation and pardon. The respondent notes the statute refers to "any person" and thus cannot be interpreted to be limited to citizens of the United States. The respondent urges the remedy is to remand the matter to the trial court for further proceedings, not to order the trial court to grant the petition.

After review of the respondent's brief, Hojati advised this court in writing that the parties are in agreement with respect to the remedy. The parties thereafter waived oral argument and we ordered the matter submitted.

Because we conclude the People's concession on the merits is appropriate, we remand the case to the trial court for further proceedings on Hojati's petition.

---

<sup>1</sup> Penal Code section 4852.01, subdivision (a) provides: "Any person convicted of a felony who has been released from a state prison or other state penal institution or agency in California, whether discharged on completion of the term for which he or she was sentenced or released on parole prior to May 13, 1943, who has not been incarcerated in a state prison or other state penal institution or agency since his or her release and who presents satisfactory evidence of a three-year residence in this state immediately prior to the filing of the petition for a certificate of rehabilitation and pardon provided for by this chapter, may file the petition pursuant to the provisions of this chapter."

### **DISPOSITION**

The order is reversed and the matter is remanded to the trial court for further proceedings consistent with the views expressed herein. The petition for writ of mandate is denied.

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

KLEIN, P.J.

We concur:

CROSKEY, J.

KITCHING, J.